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67097-023; 11106

REMARKS

Applicant would like to thank the Examiner for the detailed remarks. Claims 1-5 were previously withdrawn. Claims 6 and 16 have been amended, and claim 20 has been cancelled. New claims 21-26 are presented. Accordingly, claims 1-19 and 21-26 are pending in the application.

Claims 6-15 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 6 has been amended to clarify that the process is of manufacturing the non-porous membrane device. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Claims 16-20 were rejected under 35 U.S.C. §102(b) as being anticipated by WO 98/35739 (hereafter WO 739). Claim 16 has been amended and recites "an indistinct, seamless boundary between the first membrane layer and the second membrane layer." WO 739 discloses a fluid separator having a composite membrane with a plurality of membrane layers. However, the WO 739 does not disclose an indistinct, seamless boundary between the multi layers, as recited in Applicant's claim. For this reason, claim 16 and its dependent claims are allowable, and Applicant respectfully requests that the rejection be withdrawn.

Claims 16-18 were rejected under 35 U.S.C. §102(b) as being anticipated by WO 02/11868 (hereafter WO 868). WO 868 also teaches a membrane with multiple layers. However, similar to as explained above, WO 868 does not disclose an indistinct, seamless boundary between the multiple layers, as recited in Applicant's claim. Accordingly, claims 16-18 are allowable and Applicant respectfully requests that the rejection be withdrawn.

Claims 6-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over WO 98/35739 (hereafter WO 739) in view of Nemser. The Examiner argues that WO 739 teaches a composite membrane having multiple layers and admits that details about a drying step between forming the layers is not discussed in WO 739. The Examiner relies on Nemser to teach this feature of Applicant's claims. However, Nemser only teaches making a single layer, not multiple layers. Therefore, Nemser cannot teach drying in between forming multiple layers. The Examiner is really using the teachings of Applicant's disclosure in hindsight to modify the base reference with Nemser. For this reason, claims 6-14 are allowable, and Applicant respectfully requests that the rejection be withdrawn.

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Additionally, the rejection fails to establish *prima facie* obviousness. The rejection states no motivation to make a multiple layer membrane by using a drying step between formation of the membranes. Indeed, one could deposit the first membrane without drying and then deposit a second membrane on top of the first membrane and subsequently dry both membranes at once. For this additional reason, the rejection should be withdrawn.

Regarding claim 8, the Examiner admits that partially dissolving a portion of the first membrane layer is not expressly disclosed in either of the references cited. For this reason alone, the rejection should be withdrawn as not disclosing all of the features recited in the claim. The Examiner attempts to supply the "partially dissolving" feature without any evidentiary basis by assuming that this feature is inherent. To support an inherency argument, the Examiner must show more than a probability or mere possibility, i.e., the Examiner must show that "partially dissolving" inevitably or invariably always occurs. Indeed, as mentioned above, neither of the references even teach how to make a multiple layer membrane. Therefore, the burden remains with the Examiner to provide an evidentiary basis for concluding that the step of partially dissolving a portion of the first membrane layer necessarily occurs. For this additional reason, claim 8 is allowable and the rejection should be withdrawn.

Regarding claim 14, the claim recites "rolling said second solution on top of said first membrane layer after said first drying process." The rejection does not even mention rolling after the first drying process, and also fails to state any motivation to do so. Therefore, the burden remains with the Examiner to consider all of the features of the claim and to state a motivation to establish *prima facie* obviousness. For this reason, claim 14 is allowable and the rejection should be withdrawn.

Regarding the rejection of claim 15 over WO 739 in view of Nemser, the rejection merely states that Nemser teaches using the membrane in an oxygen permeation process. The rejection states no motivation whatsoever for modifying the base reference with the secondary reference to achieve the features of claim 15. For this reason, the burden remains with the Examiner to provide a motivation to establish *prima facie* obviousness.

Claim 15 was also rejected under 35 U.S.C. §103(a) as being unpatentable over WO 739 in view of Nemser and further in view of Spadaccini or Staroselski.

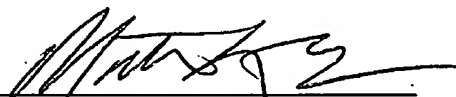
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With regard to the rejections based upon Spadaccini, the instant application and Spadaccini (6,709,492) were, at the time of the invention of the instant application, commonly owned by UNITED TECHNOLOGIES CORPORATION. Therefore, the Spadaccini reference is disqualified as prior art, and Applicant respectfully requests that the rejection be withdrawn.

With regard to the rejection based upon Staroselski, the instant application and Staroselski (7,041,154) were, at the time of the invention of the instant application, commonly owned by UNITED TECHNOLOGIES CORPORATION. Therefore, the Spadaccini reference is disqualified as prior art, and Applicant respectfully requests that the rejection be withdrawn.

Fees in the amount of \$150.00 for additional claims may be charged to Deposit Account No. 21-0279 in the name of United Technologies Corporation. Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge the same Deposit Account for any additional fees or credit the account for any overpayment.

Respectfully submitted,

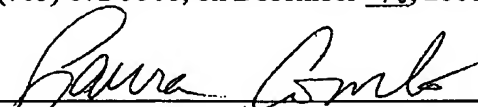


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I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on December 18, 2006.


Laura Combs